

CUSTOMS BULLETIN AND DECISIONS

Weekly Compilation of

Decisions, Rulings, Regulations, Notices, and Abstracts

**Concerning Customs and Related Matters of the
U.S. Customs Service**

U.S. Court of Appeals for the Federal Circuit

and

U.S. Court of International Trade

VOL. 32

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NO. 37

This issue contains:

U.S. Customs Service

T.D. 98-72 and 98-73

General Notices

NOTICE

The decisions, rulings, regulations, notices and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Finance, Logistics Division, National Support Services Center, Washington, DC 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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<http://www.customs.ustreas.gov>

U.S. Customs Service

Treasury Decisions

(T.D. 98-72)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR AUGUST 1998

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday(s): None.

China (Taiwan) N.T. dollar:

August 1, 1998	\$ 0.029078
August 2, 1998 .....	.029078
August 3, 1998 .....	.029028
August 4, 1998 .....	.029028
August 5, 1998 .....	.028986
August 6, 1998 .....	.028977
August 7, 1998 .....	.028860
August 8, 1998 .....	.028860
August 9, 1998 .....	.028860
August 10, 1998 .....	.028736
August 11, 1998 .....	.028653
August 12, 1998 .....	.028694
August 13, 1998 .....	.028744
August 14, 1998 .....	.028810
August 15, 1998 .....	.028810
August 16, 1998 .....	.028810
August 17, 1998 .....	.028760
August 18, 1998 .....	.028785
August 19, 1998 .....	.028694
August 20, 1998 .....	.028902
August 21, 1998 .....	.028818
August 22, 1998 .....	.028818
August 23, 1998 .....	.028818
August 24, 1998 .....	.028694
August 25, 1998 .....	.028694
August 26, 1998 .....	.028703
August 27, 1998 .....	.028736
August 28, 1998 .....	.028694
August 29, 1998 .....	.028694
August 30, 1998 .....	.028694
August 31, 1998 .....	.028670

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for August 1998 (continued):

Greece drachma:

August 1, 1998	\$0.003379
August 2, 1998 .....	.003379
August 3, 1998 .....	.003373
August 4, 1998 .....	.003500
August 5, 1998 .....	.003398
August 6, 1998 .....	.003404
August 7, 1998 .....	.003394
August 8, 1998 .....	.003394
August 9, 1998 .....	.003394
August 10, 1998 .....	.003390
August 11, 1998 .....	.003369
August 12, 1998 .....	.003386
August 13, 1998 .....	.003322
August 14, 1998 .....	.003287
August 15, 1998 .....	.003287
August 16, 1998 .....	.003287
August 17, 1998 .....	.003301
August 18, 1998 .....	.003308
August 19, 1998 .....	.003308
August 20, 1998 .....	.003307
August 21, 1998 .....	.003298
August 22, 1998 .....	.003298
August 23, 1998 .....	.003298
August 24, 1998 .....	.003271
August 25, 1998 .....	.003259
August 26, 1998 .....	.003195
August 27, 1998 .....	.003204
August 28, 1998 .....	.003282
August 29, 1998 .....	.003282
August 30, 1998 .....	.003282
August 31, 1998 .....	.003306

Korea, Republic of won:

August 1, 1998	\$0.000812
August 2, 1998 .....	.000812
August 3, 1998 .....	.000800
August 4, 1998 .....	.000805
August 5, 1998 .....	.000787
August 6, 1998 .....	.000750
August 7, 1998 .....	.000752
August 8, 1998 .....	.000752
August 9, 1998 .....	.000752
August 10, 1998 .....	.000743
August 11, 1998 .....	.000746
August 12, 1998 .....	.000747
August 13, 1998 .....	.000746
August 14, 1998 .....	.000754
August 15, 1998 .....	.000754
August 16, 1998 .....	.000754
August 17, 1998 .....	.000749
August 18, 1998 .....	.000758
August 19, 1998 .....	.000766
August 20, 1998 .....	.000768
August 21, 1998 .....	.000768
August 22, 1998 .....	.000768
August 23, 1998 .....	.000768

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for August 1998 (continued):

Korea, Republic of won (continued):

August 24, 1998	\$0.000766
August 25, 1998 .....	.000764
August 26, 1998 .....	.000762
August 27, 1998 .....	.000758
August 28, 1998 .....	.000747
August 29, 1998 .....	.000747
August 30, 1998 .....	.000747
August 31, 1998 .....	.000749

Dated: September 1, 1998.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 98-73)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR AUGUST 1998

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in Treasury Decision 98-61 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday(s): None.

Australia dollar:

August 21, 1998	\$0.583000
August 22, 1998 .....	.583000
August 23, 1998 .....	.583000
August 24, 1998 .....	.579200
August 25, 1998 .....	.576000
August 26, 1998 .....	.568200
August 27, 1998 .....	.555000
August 28, 1998 .....	.565000
August 29, 1998 .....	.565000
August 30, 1998 .....	.565000
August 31, 1998 .....	.572000

FOREIGN CURRENCIES—Variances from quarterly rates for August 1998
(continued):

Canada dollar:

August 21, 1998	\$0.648508
August 22, 1998 .....	.648508
August 23, 1998 .....	.648508
August 24, 1998 .....	.645453
August 25, 1998 .....	.644870
August 26, 1998 .....	.639795
August 27, 1998 .....	.634115
August 28, 1998 .....	.637267
August 29, 1998 .....	.637267
August 30, 1998 .....	.637267
August 31, 1998 .....	.635122

Japan yen:

August 3, 1998	\$0.006859
August 7, 1998 .....	.006835
August 8, 1998 .....	.006835
August 9, 1998 .....	.006835
August 10, 1998 .....	.006824
August 11, 1998 .....	.006796
August 12, 1998 .....	.006845
August 14, 1998 .....	.006832
August 15, 1998 .....	.006832
August 16, 1998 .....	.006832
August 17, 1998 .....	.006860

Mexico peso:

August 24, 1998	\$0.103466
August 25, 1998 .....	.104275
August 26, 1998 .....	.101420
August 27, 1998 .....	.100301
August 28, 1998 .....	.099502
August 29, 1998 .....	.099502
August 30, 1998 .....	.099502
August 31, 1998 .....	.100150

New Zealand dollar:

August 24, 1998	\$0.491000
August 25, 1998 .....	.491200
August 26, 1998488500
August 27, 1998483800

Norway krone:

August 27, 1998	\$0.120192
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Singapore dollar:

August 28, 1998	\$0.563380
August 29, 1998563380
August 30, 1998563380
August 31, 1998 .....	.563380

South Africa, Republic of, rand:

August 10, 1998	\$0.158983
August 11, 1998 .....	.157233
August 12, 1998 .....	.157667
August 13, 1998 .....	.158730
August 14, 1998 .....	.158103
August 15, 1998 .....	.158103

FOREIGN CURRENCIES—Variances from quarterly rates for August 1998
(continued):

South Africa, Republic of, rand (continued):

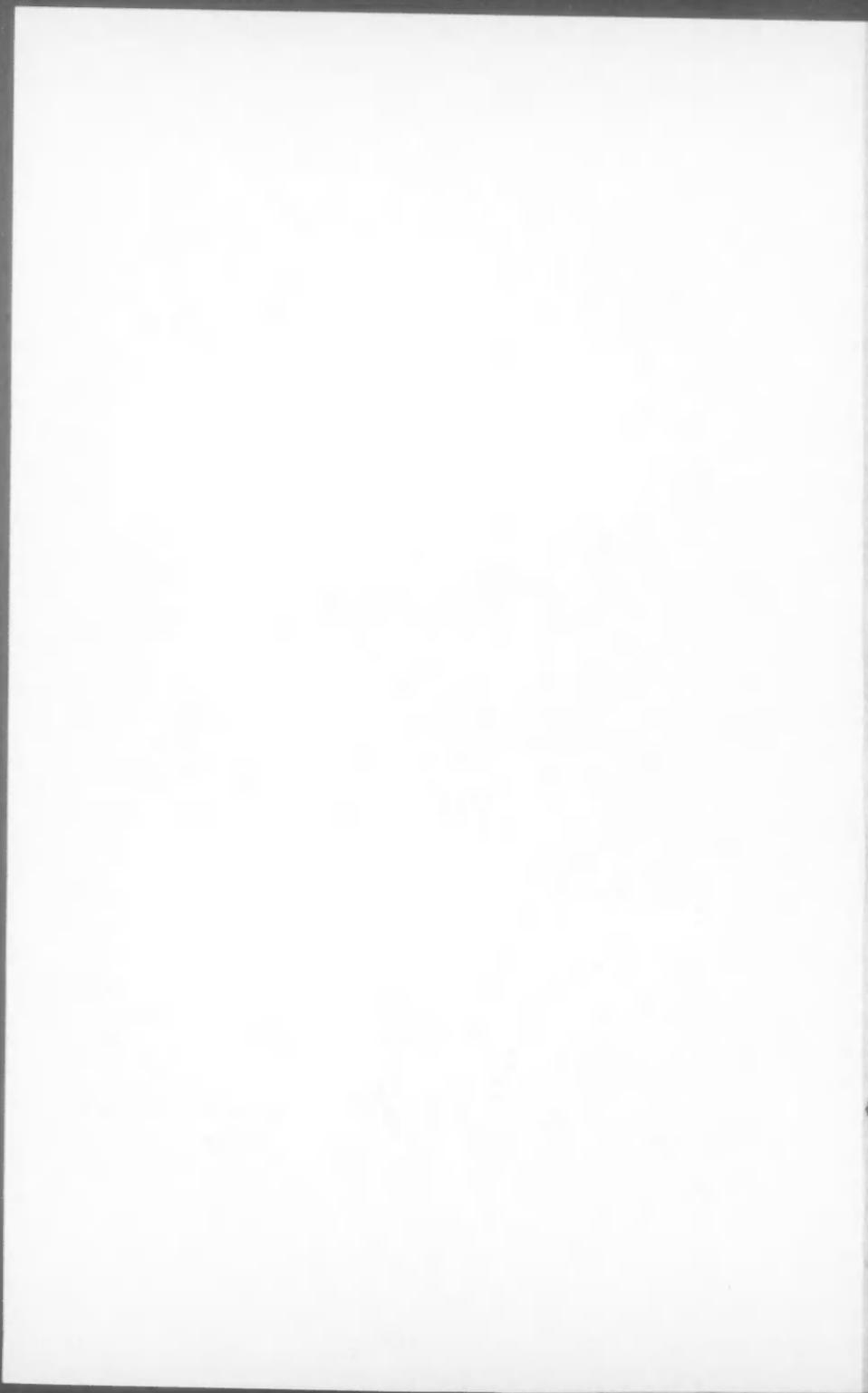
August 16, 1998	\$0.158103
August 19, 1998 .....	.158228
August 20, 1998 .....	.157480
August 21, 1998 .....	.156740
August 22, 1998 .....	.156740
August 23, 1998 .....	.156740
August 26, 1998 .....	.156250
August 27, 1998 .....	.150602
August 28, 1998 .....	.154321
August 29, 1998 .....	.154321
August 30, 1998154321
August 31, 1998183824

Switzerland franc:

August 31, 1998	\$0.693626
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Dated: September 1, 1998.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.



U.S. Customs Service

General Notices

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 7-1998)

AGENCY: U.S. Customs Service, Department of the Treasury.

SUMMARY: The copyrights, trademarks, and trade names recorded with the U.S. Customs Service during the month of July 1998 follow. The last notice was published in the CUSTOMS BULLETIN on August 19, 1998.

Corrections or information to update files may be sent to U.S. Customs Service, IPR Branch, 1300 Pennsylvania Avenue, NW, Ronald Reagan Building, 3rd floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: John F. Atwood, Chief, Intellectual Property Rights Branch, (202) 927-2330.

Dated: September 1, 1998.

JOHN F. ATWOOD,
Chief,
Intellectual Property Rights Branch.

The list of recordations follow:

08/03/98
16 23:05
U.S. CUSTOMS SERVICE
IPR RECORDINGS ABED IN JULY 1998

REC. NUMBER	EFF. DT	EXP. DT	NAME OF COP. / TMK. / TIM OR MSK.	NAME OF COP. / TMK. / TIM OR MSK.	OWNER NAME	RES
COP9800102	1998/07/06	2008/07/06	1000 (TEN-EIGHTY) SNOWBOARDING (N64 VERSION)	NINTENDO OF AMERICA	N	
COP9800103	1998/07/06	2018/07/06	HOT WHEELS G-FORCE TRACK SYSTEM	MATTEL INC.	N	
COP9800104	1998/07/06	2018/07/07	NEARME V.4.11	NOVELL INC.	N	
COP9800105	1998/07/07	2018/07/07	GROUPWISE 5.2-COLLABORATION SOFTWARE	NOVELL INC.	N	
COP9800106	1998/07/14	2018/07/14	PEARL RIVER BRIDGE BRAND LABELS (5 DESIGNS)	GUANGDONG FOODSTUFFS EXPORT & IM		
COP9800107	1998/07/14	2018/07/14	NDST FOR NT 1.0	NOVELL, INC.	H	
COP9800108	1998/07/14	2018/07/14	MANAENIUS 2.5	NOVELL, INC.	H	
COP9800109	1998/07/14	2018/07/14	NOVELL/ERIKMANAGER 2.1	NOVELL, INC.	H	
COP9800110	1998/07/14	2018/07/14	COLLECTION OF LITTLE HINGED BOXES-1995	GIANNINA MAZZIERADA, GIANNINA ROSE	H	
COP9800111	1998/07/14	2018/07/14	COLLECTION OF LITTLE HINGED BOXES-1997	GIANNINA MAZZIERADA, GIANNINA ROSE	H	
COP9800112	1998/07/14	2018/07/14	COLLECTION OF LITTLE HINGED BOXES-1998	DREAMWORKS LLC & UNIVERSAL CITY	H	
COP9800113	1998/07/14	2018/07/14	SMALL SOLDIERS DIGITAL STYLE GUIDE	CHAINSURBLD CORP / DRA KEEPS USA	H	
COP9800114	1998/07/14	2018/07/14	I LOVE JESUS WITH MUSICAL NOTES	NOVELL INC.	N	
COP9800115	1998/07/14	2018/07/14	I LOVE JESUS & JESUS LOVES ME	SABAN ENTERTAINMENT INC.	N	
COP9800116	1998/07/14	2018/07/14	NDST FOR NT 1.0	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800117	1998/07/14	2018/07/14	CAPTAIN KANGAROO-STYLE GUIDE	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800118	1998/07/17	2018/07/17	ALTERNATE OBLONGS	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800119	1998/07/17	2018/07/17	ASYMMETRICAL FORM WITH CLOSE IRREGULAR SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800120	1998/07/17	2018/07/17	ASYMMETRICAL FLATED SPHERE	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800121	1998/07/17	2018/07/17	ASYMMETRICAL SPHEROID WITH COARE SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800122	1998/07/17	2018/07/17	ASYMMETRICAL SPHEROID WITH FINE SPIRAL RIB & CIRCULAR LINES	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800123	1998/07/17	2018/07/17	ASYMMETRICAL SPHEROID WITH SPIRAL RIB & CIRCULAR LINES	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800124	1998/07/17	2018/07/17	ASYMMETRICAL SPHEROID	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800125	1998/07/17	2018/07/17	BEHIND THE EARTH FORM	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800126	1998/07/17	2018/07/17	BEHIND THE EARTH FORM	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800127	1998/07/17	2018/07/17	DOUBLE HORN SHAPE	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800128	1998/07/17	2018/07/17	ELONGATED SPHERE WITH IRREGULAR SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800129	1998/07/17	2018/07/17	ELONGATED SPHERE WITH IRREGULAR SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800130	1998/07/17	2018/07/17	HEAD SHAPED FLOR LAMP	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800131	1998/07/17	2018/07/17	LONG SPHEROID	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800132	1998/07/17	2018/07/17	PEAR-SHAPED FORM WITH WIDE RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800133	1998/07/17	2018/07/17	SQUARE AKARI (CUBES)	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800134	1998/07/17	2018/07/17	SQUARE AKARI WITH IRREGULAR RIB (SHORT VERSION)	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800135	1998/07/17	2018/07/17	SQUARE AKARI WITH IRREGULAR RIB (TALL VERSION)	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800136	1998/07/17	2018/07/17	SQUARE-SHADED FLOOR LAMP	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800137	1998/07/17	2018/07/17	SQUARE-SHADED FLOOR LAMP	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800138	1998/07/17	2018/07/17	SQUARE-SHADED FLOOR LAMP	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800139	1998/07/17	2018/07/17	SQUARE-SHADED FLOOR LAMP	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800140	1998/07/17	2018/07/17	TRIANGLE IN LIGHT IRREGULAR SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800141	1998/07/17	2018/07/17	TRIANGLE IN LIGHT IRREGULAR SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800142	1998/07/17	2018/07/17	TRIANGLED PYRAMID WITH IRREGULAR SPIRAL RIB	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800143	1998/07/17	2018/07/17	VARIATIONS LIGHT SCULPTURE	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800144	1998/07/17	2018/07/17	VARIATIONS LIGHT SCULPTURE	ISANU NOGUCHI FOUNDATION INC.	N	
COP9800145	1998/07/17	2018/07/17	TOY BOX	CONCOQUE CORPORATION INC.	H	
SUBTOTAL RECORDATION TYPE						66
TMK9800509	1998/07/02	2001/12/24	TAI HING BRAND			
TMK9800510	1998/07/06	2006/05/31	HARTZ			
						Y
						H

08-05498
16-26-05

U.S. CUSTOMS SERVICE
IPR REGISTRATIONS ADDED IN JULY 1998

PAGE 2
DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMN OR MSK	NAME OF BOLI DESIGN & JAPANESE CHARACTERS	OWNER NAME	RES
TMK9800511	1998/07/06	2007/06/21	BOIL DESIGN	ZAGHLIN	AJINOMOTO KABUSHIKI KAISHA	N
TMK9800512	1998/07/06	2005/11/08	TCB	COOL BREEZE	ALBERTO-CULVER COMPANY INC.	N
TMK9800513	1998/07/06	2002/07/25	ME MOTHER'S HEART, PLUS DESIGN	THE COTTON & SONS INC.	THE COTTON & SONS INC.	N
TMK9800514	1998/07/06	2005/09/25	NAME MY NECKLACE CHAIN DESIGN	THE COLGAN COMPANY INC.	THE COLGAN COMPANY INC.	N
TMK9800515	1998/07/06	2005/09/25	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800516	1998/07/06	2005/09/25	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800517	1998/07/06	2005/09/25	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800518	1998/07/06	2005/09/25	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800519	1998/07/06	2006/01/16	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800520	1998/07/06	2006/01/19	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800521	1998/07/06	2006/01/19	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800522	1998/07/06	2006/01/20	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800523	1998/07/06	2006/01/20	NICKEL KLEON	VIACOM INTERNATIONAL INC.	VIACOM INTERNATIONAL INC.	N
TMK9800524	1998/07/06	2005/08/27	NICKEL KLEON	PHARMACIA & UPJOHN COMPANY	PHARMACIA & UPJOHN COMPANY	N
TMK9800525	1998/07/06	2008/11/22	NACEL	CONCODE FRAGRANCE ASSOCIATES, INC.	CONCODE FRAGRANCE ASSOCIATES, INC.	Y
TMK9800526	1998/07/09	2006/06/02	CIGAR DESIGN	QTI, INC.	QUBIT/TECH INC.	N
TMK9800527	1998/07/09	2006/06/09	CIGAR	QUBIT/TECH INC.	QUBIT/TECH INC.	N
TMK9800528	1998/07/14	2007/12/09	QTI, INC. DESIGN	TEMPUS INTERNATIONAL CORPORATION	TEMPUS INTERNATIONAL CORPORATION	N
TMK9800529	1998/07/14	2007/12/09	QUARTZ WATCH AND DESIGN	TEMPUS INTERNATIONAL CORPORATION	TEMPUS INTERNATIONAL CORPORATION	N
TMK9800530	1998/07/14	2007/12/09	MICHELE QUARTZ DESIGN	TEMPUS INTERNATIONAL CORPORATION	TEMPUS INTERNATIONAL CORPORATION	N
TMK9800531	1998/07/14	2008/11/13	MICHELE DESIGN	TEMPUS INTERNATIONAL CORPORATION	TEMPUS INTERNATIONAL CORPORATION	N
TMK9800532	1998/07/14	2008/11/13	MICHELE STYLIZED LETTERING	TEMPUS INTERNATIONAL CORPORATION	TEMPUS INTERNATIONAL CORPORATION	N
TMK9800533	1998/07/14	2008/11/22	DESIGN OF A FACE	LEE H. BISHOP	LEE H. BISHOP	N
TMK9800534	1998/07/14	2007/12/12	SUBARU	FUJI JUKOGYO KABUSHIKI KAISHA	FUJI JUKOGYO KABUSHIKI KAISHA	N
TMK9800535	1998/07/14	2009/12/15	MISCELLANEOUS DESIGN (SIX STARS)	ESCO INDUSTRIES INC.	ESCO INDUSTRIES INC.	N
TMK9800536	1998/07/14	2009/12/15	MISCELLANEOUS DESIGN --HULA POPPER	ESCO INDUSTRIES INC.	ESCO INDUSTRIES INC.	N
TMK9800537	1998/07/14	2008/01/01	MISCELLANEOUS DESIGN --JITTERBUG	ESCO INDUSTRIES INC.	ESCO INDUSTRIES INC.	N
TMK9800538	1998/07/14	2008/01/11	SHAPE AND CONFIGURATION OF A FISHING LURE--ZARA SPOOK	RAINBOW WEAR INC.	RAINBOW WEAR INC.	N
TMK9800539	1998/07/14	2008/03/24	ZARA DESIGN	JAVITOS INC.	JAVITOS INC.	N
TMK9800540	1998/07/14	2007/10/14	ZARA DESIGN	JAVITOS INC.	JAVITOS INC.	Y
TMK9800541	1998/07/14	2004/04/29	ZARA & RAIN	JAVITOS INC.	JAVITOS INC.	Y
TMK9800542	1998/07/14	2002/12/30	JAVITOS & BOTTLE DESIGN	JAVITOS INC.	JAVITOS INC.	Y
TMK9800543	1998/07/14	2004/04/20	JAVITOS & BOTTLE DESIGN	JAVITOS INC.	JAVITOS INC.	Y
TMK9800544	1998/07/14	2006/04/01	JOHN CARTER	JAVITOS INC.	JAVITOS INC.	Y
TMK9800545	1998/07/14	2006/04/01	JAVITOS	JAVITOS INC.	JAVITOS INC.	Y
TMK9800546	1998/07/14	2006/04/01	JAVITOS	JAVITOS INC.	JAVITOS INC.	Y
TMK9800547	1998/07/14	2006/04/01	JAVITOS	JAVITOS INC.	JAVITOS INC.	Y
TMK9800548	1998/07/15	2008/03/11	CHIRAG	EDGAR RICE BURROUGHS INC.	EDGAR RICE BURROUGHS INC.	N
TMK9800549	1998/07/15	2008/03/11	XCS	EDGAR RICE BURROUGHS INC.	EDGAR RICE BURROUGHS INC.	N
TMK9800550	1998/07/15	2000/06/24	LIGHTHOUSE LOGO	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800551	1998/07/15	2002/08/21	ROCKPORT	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800552	1998/07/15	2004/01/03	ROCKPORT	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800553	1998/07/15	2006/08/05	SPRING SYSTEM	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800554	1998/07/15	2002/08/11	ROCKPORT	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800555	1998/07/15	2001/06/17	LIGHTHOUSE LOGO	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800556	1998/07/15	2001/06/17	HORN-SHIELD	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800557	1998/07/15	2000/08/13	PROBLASTER	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800558	1998/07/15	2002/07/20	DRESSPORTS	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N
TMK9800559	1998/07/15	2002/07/20	ROCKPORT	ROCKPORT COMPANY INC.	ROCKPORT COMPANY INC.	N

08/03/98
16 26 05
U.S. CUSTOMS SERVICE
TFR RECORDATIONS ADDED IN JULY 1998

REC NUMBER	EFF. DT	NAME OF CPT., TMK, TNN OR MSK	NAME OF CPT., TMK, TNN OR MSK	PAGE DETAIL	RES
TMK800560	199807 6	20050/04 GEOSHAPES STYLIZED	199807 6	KERLINGER, JOHN D. KUM KANG TRADING U.S.A., INC.	N
TMK800561	199807 6	20080/16 BLACK 'N GOLD	199807 6	PROTEL TECHNOLOGY PTY. LTD.	N
TMK800562	199807 17	20080/17 PROTEL	199807 17	COBRA GOLF INCORPORATED	N
TMK800563	199807 17	200711208 KING COBRA (STYLIZED)	199807 17	COBRA GOLF INCORPORATED	N
TMK800564	199807 17	200711208 COBRA OUTBACK AND DESIGN	199807 17	COBRA GOLF INCORPORATED	N
TMK800565	199807 17	20071125 LADY COBRA II AND DESIGN	199807 17	COBRA GOLF INCORPORATED	N
TMK800566	199807 17	20071125 KING COBRA II	199807 17	COBRA GOLF INCORPORATED	N
TMK800567	199807 17	20071118 KING COBRA II	199807 17	COBRA GOLF INCORPORATED	N
TMK800568	199807 17	20070/15 IQ SYSTEM	199807 17	COBRA GOLF INCORPORATED	N
TMK800569	199807 17	20070/22 TITANIUM AND DESIGN	199807 17	COBRA GOLF INCORPORATED	N
TMK800570	199807 17	20090/14 KING COBRA TITANIUM	199807 17	COBRA GOLF INCORPORATED	N
TMK800571	199807 17	20070/07 DESIGN OF NEW SNAKE WITH CROWN	199807 17	COBRA GOLF INCORPORATED	N
TMK800572	199807 17	2002110 COBRA	199807 17	BARNES GROUP INC.	N
TMK800573	199807 17	20070/11 BLUE COLOR DIE SPRING DESIGN	199807 17	CORSA GOLF INCORPORATED	N
TMK800574	199807 17	20080/22 KING COBRA II AND DESIGN (LINEAR)	199807 17	CORSA GOLF INCORPORATED	N
TMK800575	199807 22	20080/22 BAFFLER	199807 22	CORSA GOLF INCORPORATED	N
TMK800576	199807 22	20080/22 DESIGN OF SNAKE STRIKING (OUTLINE)	199807 22	CORSA GOLF INCORPORATED	N
TMK800577	199807 22	20080/22 LADY COBRA (SCRIPT STYLIZED)	199807 22	CORSA GOLF INCORPORATED	N
TMK800578	199807 22	20080/22 COBRA	199807 22	CORSA GOLF INCORPORATED	N
TMK800579	199807 22	20080/22 IQ CONFIGURATION OF PHOTOGRAPH ALBUM	199807 22	ANTIOCH COMPANY, THE	N
TMK800580	199807 22	200116/09 CONFIGURATION OF A PHOTOGRAPH ALBUM	199807 22	UNION TOOLS, INC.	N
TMK800581	199807 23	2003/09 LIP PAL	199807 23	MOTOROLA, INC.	N
TMK800582	199807 23	2008/725 STARTAC	199807 23	MOTOROLA, INC.	N
TMK800583	199807 27	2008/727 E.P.	199807 27	BALTIMORE AIRCOIL COMPANY INC.	N
TMK800584	199807 27	2008/727 MICOTAC	199807 27	CREATIVE GIFTS INC.	N
TMK800585	199807 27	2008/727 LEVITRON AND DESIGN	199807 27	MCDONALD'S CORPORATION	N
TMK800586	199807 29	2008/317 GRIMACE	199807 29	MCDONALD'S CORPORATION	N
TMK800587	199807 29	2005/530 GRIMACE	199807 29	MCDONALD'S CORPORATION	N
TMK800588	199807 31	2007/308 HAMBURLAR	199807 31	TOMMY HILFGER LICENSING INC.	N
TMK800589	199807 31	2006/6903 TOMMY	199807 31	BRUNSWICK BILLIARD & BILLIARDS	N
TMK800590	199807 31	20071118 BRUNSWICK GOLD CROWN POOL TABLE DESIGN	199807 31	KAUSHIKI KAISKA TOSHIBA	N
TMK800591	199807 31	200806/07 TOSHIBA	199807 31		

SUBTOTAL RECORDATION TYPE 85

TOTAL RECORDATIONS ADDED THIS MONTH

129

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, September 2, 1998.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

PATRICIA TODARO,
(for Stuart P. Seidel, Assistant Commissioner,
Office of Regulations and Rulings.)

**PROPOSED MODIFICATION/REVOCATION OF RULING LETTERS
RELATING TO TARIFF CLASSIFICATION OF OUTDOOR
WATER TOYS**

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification/revocation of tariff classification ruling letters.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify one ruling and revoke another pertaining to the tariff classification of articles known as "Sprinkles" and "Super Snake" water sprinklers under the Harmonized Tariff Schedule of the United States (HTSUS). Comments are invited on the correctness of the proposed rulings.

DATE: Comments must be received on or before October 16, 1998.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Mary Beth McLoughlin, General Classification Branch (202) 927-2404.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Moderniza-

tion) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling and revoke another pertaining to the tariff classification of "Sprinkles" and "Super Snake" water sprinklers under the HTSUS. "Sprinkles" is a red plastic hydrant-shaped water sprinkler. It measures 7 inches wide and 10 inches high. "Super Snake" is an inflatable snake-shaped water sprinkler which measures 4 feet long and sprays water up to 15 feet high. A standard garden hose attaches to an opening in each of the articles to provide water which is dispensed from small holes in each. They are marketed as articles for children's recreational use. Comments are invited on the correctness of the proposed rulings.

In New York Ruling Letter (NYRL) B88748 dated August 28, 1997, Customs classified, among other things, "Sprinkles" under subheading 3924.90.5500, HTSUS, which provides, in pertinent part, for other plastic household articles. In NYRL B86181 dated July 10, 1997, Customs classified the "Super Snake" under subheading 3926.90.9890, HTSUS, as other plastic articles. NYRLs B88748 and B86181 are set forth as Attachments A and B. These classification decisions resulted from a determination that the articles were not "designed to amuse" but rather to do a specific task, divert a stream of water.

We are of the opinion that application of the factors enumerated in *United States v. Carborundum Company*, 63 CCPA 98, C.A.D. 1172, 536 F.2d 373 (1976), cert. denied, 429 U.S. 979, for determining whether an article falls within a particular class or kind of good, confirms that "Sprinkles" and "Super Snake" are principally designed for amusement and therefore are considered toys for tariff purposes.

Accordingly, Customs intends to modify NYRL B88748 and revoke NYRL B86181 to reflect the proper classification of "Sprinkles" and "Super Snake" under subheading 9503.90.0045, HTSUS, as "[o]ther toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: [o]ther: [o]ther toys and models." Proposed Headquarters Ruling Letters 961530 and 960918 modifying NYRL B88748 and revoking NYRL B86181, respectively, are set forth in Attachments C and D to this document.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: August 27, 1998.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
New York, NY, August 28, 1997.
CLA-2-95:RR:NC:SP:225 B88748
Category: Classification
Tariff No. 9503.90.0045 and 3924.90.5500

Ms. HELENE CHIP
SHELCORE TOYS
347 Elizabeth Avenue
Somerset, NJ 08873-1101

Re: The tariff classification of assorted toys and a water sprinkler from China.

DEAR MS. CHIP:

In your letter dated August 14, 1997 you requested a tariff classification ruling.

The "Bubble Farm", item #02633, is a plastic representation of a red silo with an attached small version of a barnyard. The silo has a yellow, dome shaped, removable lid. Two slots are located within the top of the lid which hold two bubble blowing wands. Attached to the top of the wands are the fixtures of a pig and a pony. A two ounce bottle of bubble solution is included with the item. One may pour the bubble solution into the silo, replace the lid, insert the pig and pony wands in the slots, remove to blow bubbles. A plastic handle is attached for ease in carrying the unit which is intended for children ages 3 and up.

Item #02650, "Sprinkles" is a plastic water sprinkler that depicts a small red fire hydrant. A happy face is printed on one side of the article and a yellow dome shaped cap sits on top like a hat. The product is intended to be hooked up to a standard garden hose. When the hose is turned on, the water pressure inside the hydrant causes the yellow top to spin as water shoots out from tiny holes around the top. It is marketed for children 3 years of age and over.

Possessing the shape of a sitting blue elephant, "Bubbles", item #02632, has an unusually wide trunk and yellow hat. The item incorporates a bellows and bubble making unit that is activated by pressing down on the elephant's hat. This action causes bubbles to emerge from the wide opening in the trunk. A plastic carry handle is attached to the article. Two ounces of bubble solution will be included in the retail package. This product is designed for children ages 18 months and up.

The "Soft Activity Farm", item #03238, is a foam-filled, textile covered cube that measures 5 by 5 by 5 inches square. Each side of the cube is printed with colorful characters and contains an infant activity such as a squeaker, mirror, crinkle flaps, etc. The article is intended for children ages 3 to 24 months.

The applicable subheading for the "Bubble Farm"—item #02633, "Bubbles"—item #02632 and the "Soft Activity Farm" item #03238, will be 9503.90.0045, Harmonized Tariff Schedule of the United States (HTS), which provides for other toys: other: other toys and models. The rate of duty will be free.

The applicable subheading for "Sprinkles", item #02650, will be 3924.90.5500, HTS, which provides for other household articles of plastics, other. The rate of duty will be 3.4 percent *ad valorem*.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alice J. Wong at 212-466-5538.

GWENN KLEIN KIRSCHNER,
Chief, Special Products Branch,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, July 10, 1997.

CLA-2-39:RR:NC:SP:222 B86181
Category: Classification
Tariff No. 3926.90.9890

Ms. HELENE CHIP
SHELCORE TOYS
347 Elizabeth Avenue
Somerset, NJ 08873-1101

Re: The tariff classification of plastic sprinkler from China.

DEAR Ms. CHIP:

In your letter dated June 6, 1997, you requested a tariff classification ruling.

The submitted sample is identified as a sprinkler, item #02693. This product measures 4 feet long. It is made of plastic in the shape of a snake. This bright colored sprinkler can easily be attached to any standard garden hose. When it is attached to the hose and filled with water, the holes at various intervals spray water up to 15 feet high. The sprinkler does not mechanically control the flow of water. This product is used on the lawn for recreation.

Other items on this ruling were extracted, see NY Ruling #B86182.

The applicable subheading for the plastic sprinkler will be 3926.90.9890, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of plastics and articles of other materials of headings 3901 to 3914: other, other. The rate of duty will be 5.3 percent *ad valorem*.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alice Masterson at 212-466-5892.

GWENN KLEIN KIRSCHNER,
Chief, Special Products Branch,
National Commodity Specialist Division.

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 960918 MMC
Category: Classification
Tariff No. 9503.90.0045

MR. ALLEN SANFT
SHELCORE TOYS
347 Elizabeth Avenue
Somerset, NJ 08873-1101

Re: "Sprinkles" water sprinkler; NYRL B88748 modified.

DEAR MR. SANFT:

This is in reference to your September 5, 1997, letter requesting reconsideration of New York Ruling Letter (NYRL) B88748 dated August 28, 1997, concerning the classification of an article described as "Sprinkles" (item 02650) under subheading 3924.90.5500, of the Harmonized Tariff Schedule of the United States (HTSUS), as other household articles of plastic. A sample, as well as catalog pictures, were submitted for our review. The other ar-

ticles which were the subject of NYRL B88748 are not in issue and therefore are not addressed in this ruling. In preparing this ruling we have considered the information in your supplemental letter of June 11, 1998.

Facts:

"Sprinkles" is a red plastic hydrant-shaped water sprinkler. It measures 7 inches wide and 10 inches high. Decals of a happy face and the phrase "Sprinkles" have been applied to the article's front. A round piece of threaded plastic sized to match a standard garden hose, is attached to the bottom right hand side of the article. There are eight small perforations in the top of the hydrant. Attached to the top of the structure is a yellow plastic dome with a series of large oval shaped perforations. As "Sprinkles" fills with water, pressure builds forcing water out of the small perforations on the top of the article. This forces the yellow dome to spin. As it spins, the water flow is interrupted and water shoots through the dome's perforations at different angles.

According to the information furnished, "Sprinkles" is designed and imported exclusively for Shelcore Toys. It is sold in the toy department of several large drug and retail chains, including but not limited to, Wal-Mart, Walgreens, Valley Toy Distributors, Namco etc. "Sprinkles" is advertised on such stations as TNT, The Family Channel and Nickelodeon. The product line to which "Sprinkles" belongs was researched and designed to target children and their parents.

The catalog describes "Sprinkles" as: "[t]his happy sprinkler pal literally spins his top to delight children with a cool water spray. * * * [a]ges Over 3 years and up. "[s]prinkles flips his lid for kids!" "[t]his happy hydrant's top spins as it sprinkles! [c]onnects easily to any standard garden hose for lots of cool fun on hot days."

Issue:

Whether "Sprinkles" is classifiable as a toy under heading 9503, HTSUS, or as other plastic household articles under heading 3924, HTSUS.

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRI's). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied. The headings under consideration are as follows:

- 3924 Tableware, kitchenware, other household articles and toilet articles, of plastics
- 9503 Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof

Note 2(v) of Chapter 39, HTSUS, states that: "[t]his chapter does not cover: * * * [a]rticles of chapter 95 (for example, toys, games, sports equipment.)." Therefore, we must first determine whether "Sprinkles" is classifiable as a toy for tariff purposes. If so, it is excluded from classification in subheading 3924, HTSUS, by operation of Note 2(v) to Chapter 39.

The term "toy" is not defined in the HTSUS. However, in understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See, T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The ENs to Chapter 95 state, in pertinent part, that "[t]his chapter covers toys of all kinds whether designed for the amusement of children or adults." Although not set forth as a definition of "toys," we have interpreted the just-quoted passage from the ENs as equating "toys" with articles "designed for the amusement of children or adults," although we believe such design must be corroborated by evidence of the articles' principal use.

When the classification of an article is determined with reference to its principal use, Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that, in the absence of special language or context which otherwise requires, such use is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use. In other words, the article's principal use at the time of importation determines whether it is classifiable within a particular class or kind.

While Additional U.S. Rule of Interpretation 1(a), HTSUS, provides general criteria for discerning the principal use of an article, it does not provide specific criteria for individual tariff provisions. However, the U.S. Court of International Trade has provided factors, which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: general physical characteristics, the expectation of the ultimate purchaser, channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), use in the same manner as merchandise which defines the class, economic practicality of so using the import, and recognition in the trade of this use. *United States v. Carborundum Company*, 63 CCPA 98, C.A.D. 1172, 536 F.2d 373 (1976), cert. denied, 429 U.S. 979.

In NYRL A86380 dated August 13, 1996, Customs classified a series of water sprinklers designed for use in watering lawns and gardens in subheading 3924.90.5500, HTSUS. Unlike the lawn sprinklers classified in NYRL A86380, "Sprinkles" physical characteristics, mainly its bright colors, imitation of a water hydrant and manipulation of water, appeal to a sense of fun and play with water. The ultimate purchaser expects to use this article as a water toy for children, not to water the lawn. It is traded in toy channels by a toy company, not a hardware or housewares company. Its manner of advertisement and display all highlight its amusing qualities. All of these characteristics indicate that "Sprinkles" is designed principally to amuse. As a result of finding "Sprinkles" to be a toy properly classified in Chapter 95, classification of the article elsewhere in the HTSUS is precluded.

Holding:

"Sprinkles" is classified under subheading 9503.90.0045, HTSUS, which provides for "[o]ther toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: [o]ther: [o]ther toys and models," with a general 1998 column one duty rate of free.

NYRL B88748 is modified.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:GC 961530 MMC
Category: Classification
Tariff No. 9503.90.0045

MR. ALLEN SANFT
SHELCORE TOYS
347 Elizabeth Avenue
Somerset, NJ 08873-1101

Re: "Super Snake" water sprinkler; NYRL B86181 revoked.

DEAR MR. SANFT:

This is in reference to New York Ruling Letter (NYRL) B86181 dated July 10, 1997, issued to Shelcore Toys, concerning the classification of an article described as "Super Snake" (item 02693) under subheading 3926.90.9890, of the Harmonized Tariff Schedule of the United States (HTSUS), as other articles of plastic. Catalog pictures of the article were submitted for our review. In preparing this ruling we have considered the information in your supplemental letter of June 11, 1998.

Facts:

"Super Snake" is a snake-shaped inflatable water sprinkler. It has a yellow base with a bright pink and green pattern over the base. It measures 4 feet long and sprays water up to 15 feet high. A round piece of threaded plastic sized to match a standard garden hose, is

attached to the back of the article. As "Super Snake" fills with water, pressure builds forcing water out of the small perforations on the top of the article.

According to the information furnished, "Super Snake" is designed and imported exclusively for Shelcore Toys and advertized on such stations as TNT, The Family Channel and Nickelodeon. The product line to which "Super Snake" belongs was researched and designed to target children and their parents. The catalog with product sheets describes "Super Snake" as: "This "ferocious" snake is really a soft! Stretching 4 feet in length, this vividly colored sprinkler sprays water up to 15 feet high. Parents simply inflate and then connect it to a standard hose to watch the splash-splash fun begin. Splish and splash fun for the yard with Super Snake Sprinkler. Ages Over 3 years and up."

Issue:

Whether "Super Snake" is classifiable as a toy under heading 9503, HTSUS, as other plastic household articles under heading 3924, HTSUS, or as other plastic articles under heading 3926, HTSUS.

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRI's). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied. The headings under consideration are as follows:

3924	Tableware, kitchenware, other household articles and toilet articles, of plastics
3926	Other articles of plastics and articles of other materials of headings 3901 to 3914
9503	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof

Note 2(v) of Chapter 39, HTSUS, states that: "[t]his chapter does not cover: * * * [a]rticles of chapter 95 (for example, toys, games, sports equipment.)." Therefore, we must first determine whether "Super Snake" is classifiable as a toy for tariff purposes. If so, it is excluded from classification in subheadings 3924 and 3926, HTSUS, by operation of Note 2(v) to Chapter 39.

The term "toy" is not defined in the HTSUS. However, in understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See, T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The ENs to Chapter 95 state, in pertinent part, that "[t]his Chapter covers toys of all kinds whether "designed for the amusement of children or adults." Although not set forth as a definition of "toys," we have interpreted the just-quoted passage from the ENs as equating "toys" with articles "designed for the amusement of children or adults," although we believe such design must be corroborated by evidence of the articles' principal use.

When the classification of an article is determined with reference to its principal use, Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that, in the absence of special language or context which otherwise requires, such use is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use. In other words, the article's principal use at the time of importation determines whether it is classifiable within a particular class or kind.

While Additional U.S. Rule of Interpretation 1(a), HTSUS, provides general criteria for discerning the principal use of an article, it does not provide specific criteria for individual tariff provisions. However, the U.S. Court of International Trade has provided factors, which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: general physical characteristics, the expectation of the ultimate purchaser, channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), use in the same manner as merchandise which defines the class, economic practicality of so using the import, and recognition in the trade of this use. *United States v. Carborundum Company*, 63 CCPA 98, C.A.D. 1172, 536 F.2d 373 (1976), cert. denied, 429 U.S. 979.

In NYRL A86380 dated August 13, 1996, Customs classified a series of water sprinklers designed for use in watering lawns and gardens in 3924.90.5500, HTSUS. Unlike the lawn sprinklers classified in NYRL A86380, the "Super Snake's" physical characteristics, mainly its bright colors, imitation of a snake and manipulation of water appeal to a sense of fun and play with water. The ultimate purchaser expects to use this article as a water toy for children, not as a lawn sprinkler. It is traded in toy channels by a toy company, not a hardware or housewares company. Its manner of advertisement and display all highlight its amusing qualities. All of these characteristics indicate that "Super Snake" is designed principally to amuse. As a result of finding "Super Snake" to be a toy properly classified in Chapter 95, classification of the article elsewhere in the HTSUS is precluded.

Holding:

"Super Snake" is classified under subheading 9503.90.0045, HTSUS, which provides for "[o]ther toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: [o]ther: [o]ther toys and models," with a general 1998 column one duty rate of free.

NYRL B86181 is revoked.

JOHN DURANT,

Director,

Commercial Rulings Division.

PROPOSED REVOCATION OF RULING LETTERS RELATING TO TARIFF CLASSIFICATION OF MIXTURES OF AMINO ACIDS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letters.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke two rulings pertaining to the tariff classification of mixtures of amino acids, imported in bulk, under the Harmonized Tariff Schedule of the United States (HTSUS). Comments are invited on the correctness of the proposed ruling.

DATE: Comments must be received on or before October 16, 1998.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulation and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Michael McManus, General Classification Branch, (202) 927-2346.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Moderniza-

tion) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke two rulings pertaining to the tariff classification of mixtures of amino acids.

These mixtures of amino acids are imported in bulk form. The products are sold for use in intravenous solutions administered by health care providers. According to *PDR Generics 1996*, 2nd edition, the injectable amino acid products provide a physiological ration of biologically utilizable amino acids in concentrated form for protein synthesis, wound healing, and reduction of the rate of endogenous protein catabolism. Used with minimal additional nutritional products, the intravenous amino acids provide nutritional support to the patient, conserve lean body mass, enhance the conservation of body protein, and help in body protein sparing. Used together with concentrated calorie sources, electrolytes, vitamins, and minerals, the intravenous amino acids provide total parenteral nutrition.

In New York Ruling Letter (NY) 810811, issued on July 10, 1995, Customs ruled that mixtures of amino acids were classified in subheading 3823.90.9050, HTSUS, the residual provision for preparations of the chemical or allied industries in the 1995 tariff. In NY 851127, issued April 25, 1990, Customs ruled that mixtures of amino acids were classified in subheading 3823.90.5050, HTSUS, the analogous provision in the 1990 tariff. These provisions correspond to subheading 3824.90.9050, HTSUS, of the 1998 tariff. NY 810811 and NY 851127 are set forth as Attachments A and B to this document.

Upon review of these rulings Customs has determined that the above classifications are in error. This product should be classified in heading 3003, HTSUS, the provision for "Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale."

Heading 3824, HTSUS, (and analogous provisions of previous tariff schedules) encompasses only those chemical products which are "not elsewhere specified or included." Thus, if a mixture of amino acids is included within heading 3003, HTSUS, it will not be classified in heading 3824, HTSUS. Explanatory Note 30.03, referring to heading 3003, states "This heading covers medicinal preparations for use in the internal or external treatment or prevention of human or animal ailments. These preparations are obtained by mixing together two or more substances * * * [t]his heading includes * * * (3) Nutritional preparations for intravenous administration only, i.e., by injection or drip into a vein." The instant merchandise is a nutritional preparation that is administered intravenously, therefore it is within the scope of this heading. This mixture contains neither penicillins, antibiotics, hormones, nor alkaloids, thus it is classified in the residual provision, subheading 3003.90.0000, HTSUS.

Customs proposes to revoke NY 810811 and NY 851127 to reflect the proper classification of mixtures of amino acids imported in bulk. Proposed Headquarters Ruling Letter (HQ) 962010 revoking NY 810811 and NY 851127, is set forth as Attachment C to this document.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: August 27, 1998.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
New York, NY, July 10, 1995.
CLA-2-38:S:N:7:239 810811
Category: Classification
Tariff No. 3823.90.9050

MR. LAWRENCE D. BLUME
GRAHAM & JAMES
885 Third Ave.
24th Floor
New York, NY 10022-4834

Re: The tariff classification of Amino Acid Mixture—"BCAA" from Japan.

DEAR MR. LAWRENCE:

In your letter dated May 22, 1995, on behalf of your client Kyowa Hakko USA, you requested a tariff classification ruling for "BCAA" which is a mixture of amino acids. You have stated that this product will be sold for use in intravenous solutions used by medical providers.

The applicable subheading will be 3823.90.9050, Harmonized Tariff Schedule of the United States (HTS), which provides for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included: other. The rate of duty will be 5 percent *ad valorem*.

This letter will be given confidential treatment based on the facts you supplied to support your claim for exemption from disclosure.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
Area Director,
New York Seaport.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, April 25, 1990.
CLA-2-38:S:N:N1:235 851127
Category: Classification
Tariff No. 3823.90.5050

MR. LAWRENCE D. BLUME
GRAHAM & JAMES
2000 M Street N.W. Suite 700
Washington DC 20036

Re: The tariff classification of four amino acids mixtures from Japan.

DEAR MR. BLUME:

In your letter dated March 16, 1990, you requested a tariff classification ruling on behalf of your client Kyowa Hakko USA, Inc..

According to your letter, these products will be used in the medical field for intravenous injections. You further state that it is your belief that they are properly classifiable in sub-heading 3823.90.5050. We agree.

The applicable subheading for A mixture, D mixture, K080 mixture and K III R mixture will be 3823.90.5050, Harmonized Tariff Schedule of the United States (HTS), which provides for chemical mixtures not elsewhere provided for. The rate of duty will be 5 percent *ad valorem*.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
Area Director,
New York Seaport.

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:GC 962010 MGM
Category: Classification
Tariff No. 3003.90.0000

MR. LAWRENCE D. BLUME
GRAHAM & JAMES
885 Third Ave.
24th Floor
New York, NY 10022-4834

Re: Amino Acid Mixtures known as "BCAA," "A Mixture," "D Mixture," "K080 Mixture" and "K III R Mixture"; Revocation of NY 851127; Revocation of NY 810811.

DEAR SIR:

This office has determined that New York Ruling Letter (NY) 851127, issued to you on April 25, 1990, in response to your letter of March 16, 1990, and NY 810811, issued to you on July 10, 1995, in response to your letter of May 22, 1995, requesting rulings on behalf of Kyowa Hakko USA, Inc., regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several mixtures of amino acids, are in error. Therefore, this ruling revokes NY 851127 and NY 810811 and sets forth the correct classification of mixtures of amino acids.

Facts:

In NY 851127, Customs ruled that four amino acid mixtures known as "A Mixture," "D Mixture," "K080 Mixture" and "K III R Mixture" were classified in subheading 3823.90.5050, HTSUS, the residual provision for chemical products and preparations of the chemical or allied industries in the 1990 tariff. In NY 810811, Customs ruled that an amino acid mixture known as "BCAA" was classified in subheading 3823.90.9050, HTSUS, the analogous provision in the 1995 tariff. The corresponding provision in the 1998 tariff schedule is subheading 3824.90.9050, HTSUS.

These mixtures of amino acids are imported in bulk form. The products are sold for use in intravenous solutions administered by health care providers. According to *PDR Generics* 1996, 2nd edition, the injectable amino acid products provide a physiological ration of biologically utilizable amino acids in concentrated form for protein synthesis, wound healing, and reduction of the rate of endogenous protein catabolism. Used with minimal additional nutritional products, the intravenous amino acids provide nutritional support to the patient, conserve lean body mass, enhance the conservation of body protein, and help in body protein sparing. Used together with concentrated calorie sources, electrolytes, vitamins, and minerals, the intravenous amino acids provide total parenteral nutrition.

Issue:

Whether mixtures of amino acids, imported in bulk form, are classified in subheading 3823.90.5050, HTSUS, the residual provision for chemical products and preparations of the chemical or allied industries.

Law and Analysis:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs. In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See, T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The following headings are relevant to the classification of this merchandise:

3003	Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale:
3003.90.0000	Other: * * * * *
3824	Prepared Binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:
3824.90	Other: * * * * *
3824.90.90	Other: * * * * *
3824.90.9050	Other: * * * * *

This matter is governed primarily by GRI 1, in that the choice in classification is between two headings. Heading 3824, HTSUS, encompasses only those chemical products which are "not elsewhere specified or included." Thus, if amino acid mixtures are included within

heading 3003, HTSUS, it will not be classified in heading 3824, HTSUS. EN 30.03, referring to heading 3003, states "This heading covers medicinal preparations for use in the internal or external treatment or prevention of human or animal ailments. These preparations are obtained by mixing together two or more substances" " [t]his heading includes" " (3) Nutritional preparations for intravenous administration only, i.e., by injection or drip into a vein." The instant merchandise is a nutritional preparation that is administered intravenously, therefore it is within the scope of this heading. This mixture contains neither penicillins, antibiotics, hormones, nor alkaloids, thus it is classified in the residual provision, subheading 3003.90.0000, HTSUS.

It could be argued that this product is "unmixed" by virtue of Note 3(a)(2) to Chapter 30 and is therefore precluded from classification in heading 3003, HTSUS, which provides only for mixed medicaments. This note states "For the purposes of headings 3003 and 3004 and of note 4(d) to this chapter the following are to be treated—(a) As unmixed products: " " (2) All goods of chapter 28 or 29." Amino acids are classified in several subheadings of heading 2922, HTSUS. However, there is no provision of Chapter 29 which includes a mixture of amino acids, therefore this product is not a good of Chapter 29 and need not be considered "unmixed."

Holding:

Mixture of amino acids, imported in bulk, are classified in subheading 3003.90.0000, HTSUS.

NY 851127 and NY 810811 are REVOKED.

JOHN DURANT,

*Director,
Commercial Rulings Division.*

PROPOSED REVOCATION OF RULING LETTER RELATING
TO TARIFF CLASSIFICATION OF AUTOMOTIVE AIRBAG
CUSHION

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling relating to the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS), of automotive airbag cushions. These are covers for automatically inflating airbags of rubber-coated textile that protect riders in case of impact. Customs invites comments on the correctness of the proposed revocation.

DATE: Comments must be received on or before October 16, 1998.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue,

N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division (202) 927-0760.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling relating to the tariff classification of automotive airbag cushions. Customs invites comments on the correctness of the proposed revocation.

In NY 814061, dated September 20, 1995, certain cushions for automotive airbags were held to be classifiable in subheading 8708.99.61, HTSUS, as other parts and accessories of motor vehicles, airbags. This ruling was based on the belief that the articles were, in fact, complete automotive airbags. NY 814061 is set forth as "Attachment A" to this document.

It is now Customs position that these articles, not being complete automotive airbags, are classifiable in subheading 8708.99.80, HTSUS, as other parts and accessories of motor vehicles, other. HQ 961386, revoking NY 814061 is set forth as "Attachment B" to this document. Before taking this action, we will give consideration to any written comments timely received.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: August 27, 1998.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

New York, NY, September 20, 1995.

CLA-2-87:R:N1:101 814061

Category: Classification

Tariff No. 8708.99.6100

MR. ROGER HAYNES
MATERIALS MANAGER
TAKATA RESTRAINT SYSTEMS
P.O. Box 1580
Greenwood, MS 38935-1580

Re: The tariff classification of an automotive airbag cushion from Mexico.

DEAR MR. HAYNES:

In your letter dated August 22, 1995 you requested a tariff classification ruling.

The item concerned is an airbag composed of a light gray textile outside and a dark gray rubber-coated inside; the circumference of the airbag is 72.9".

The applicable subheading for the airbag cushion will be 8708.99.6100, Harmonized Tariff Schedule of the United States (HTS), which provides for Parts and accessories of * * * motor vehicles * * *; Other parts and accessories: Other: Other: Other: Airbags. The rate of duty will be 3% *ad valorem*.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Commodity Specialist Robert DeSoucey at 212-466-5667.

ROGER J. SILVESTRI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

Washington, DC.

CLA-2 RR:CR:GC 961386 JAS

Category: Classification

Tariff No. 8708.99.80

MR. ROGER HAYNES
MATERIALS MANAGER
TAKATA RESTRAINT SYSTEMS
P.O. Box 1580
Greenwood, MS 38935-1580

Re: NY 814061 Revoked; automotive airbag cushion; airbag cover of textile with rubber; parts and accessories for motor vehicles, airbags, Subheading 8708.99.61; HQ 958624.

DEAR MR. HAYNES:

In NY 814061, issued to you on September 20, 1995, by the Director, Customs National Commodity Specialist Division, New York, a textile and rubber automotive airbag cushion was held to be classifiable in subheading 8708.99.61, Harmonized Tariff Schedule of the United States (HTSUS), as parts and accessories of the motor vehicles of headings 8701 to 8705, airbags. We have reconsidered this classification and believe that it is incorrect.

Facts:

The merchandise in NY 814061 was described alternatively as an airbag and an airbag cushion. In fact, it is a cushion or cover for an inflatable automotive airbag. The article was

said to be 72.9 inches in circumference and composed of a light gray textile outside panel and a dark gray rubber-coated inside panel. The panels are precut to size and sewn together.

The provisions under consideration are as follows:

8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
8708.99	Other:
8708.99.61	Airbags
8708.99.80	Other

Issue:

Whether the airbag cushion is an automotive part and accessory of heading 8708.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6. GRI 3(a) states, in part, that where goods are, *prima facie*, classifiable under two or more headings, the heading which provides the most specific description shall be preferred to headings providing a more general description.

The **Harmonized Commodity Description and Coding System Explanatory Notes (ENs)** constitute the official interpretation of the Harmonized System. While not legally binding, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

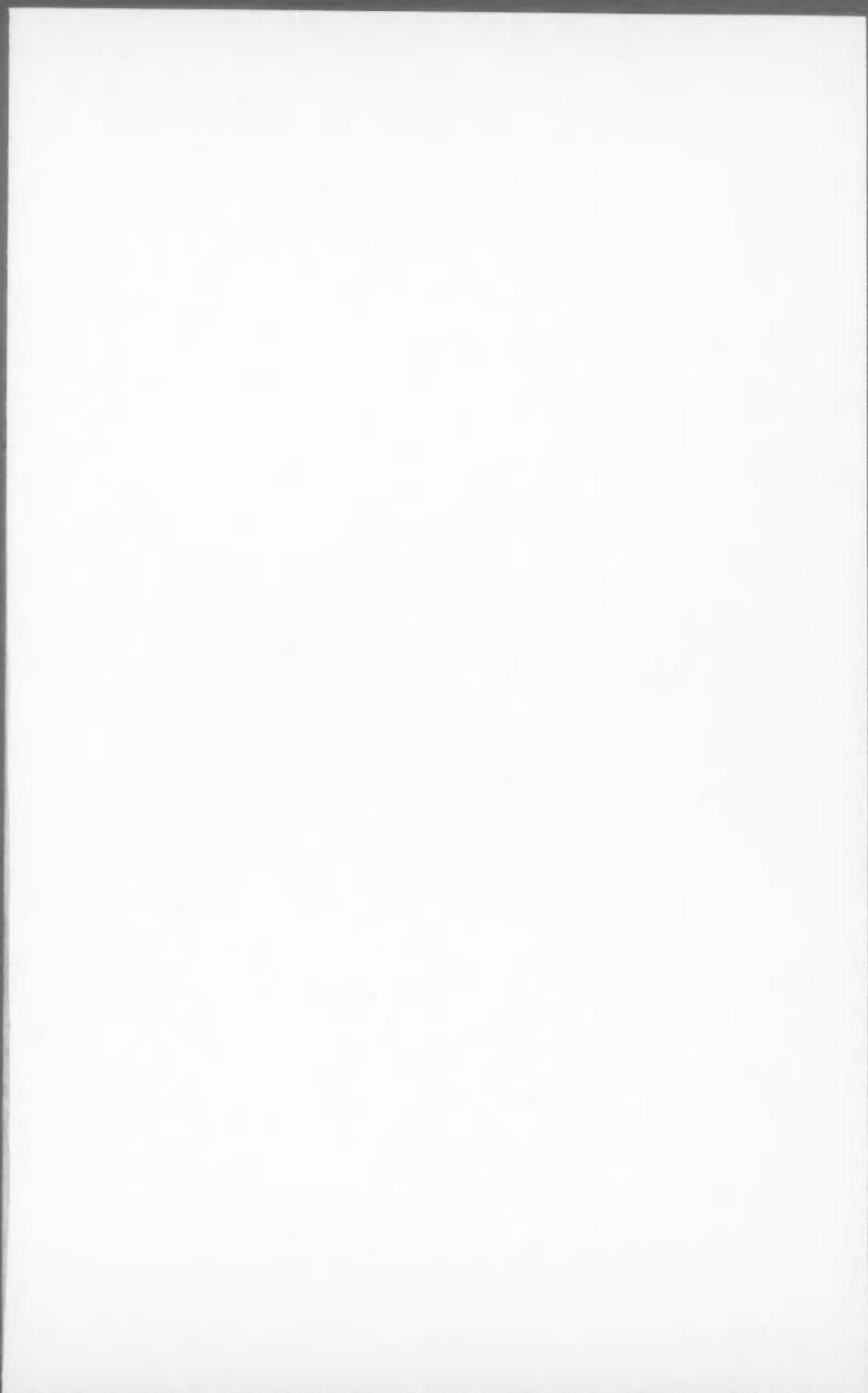
On the issue of automotive parts or accessories, relevant ENs at p. 1552 state that heading 87.08 covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, provided they are not excluded by Note 2 to Section XVII and they are identifiable as being suitable for use solely or principally with the motor vehicles of those headings. The airbag cushion meets these criteria. Accordingly, it is described by heading 8708. But, the cushion consists of textile and rubber components or materials. Appropriate headings in Chapters 40 and 63, HTSUS, describe articles of rubber and other made up textile articles, respectively. However, each heading describes part only of the good. They are deemed to be equally specific in relation to the airbag cushion. Moreover, these headings cover a wide range of articles composed of the respective constituent materials. Heading 8708, on the other hand, covers a more limited class of articles, whether of rubber or textile, that are parts and accessories for the motor vehicles of headings 8701 to 8705. We conclude that heading 8708 provides a more specific description for the automotive airbag covers than do other headings which provide a more general description. See HQ 958624, dated February 21, 1996.

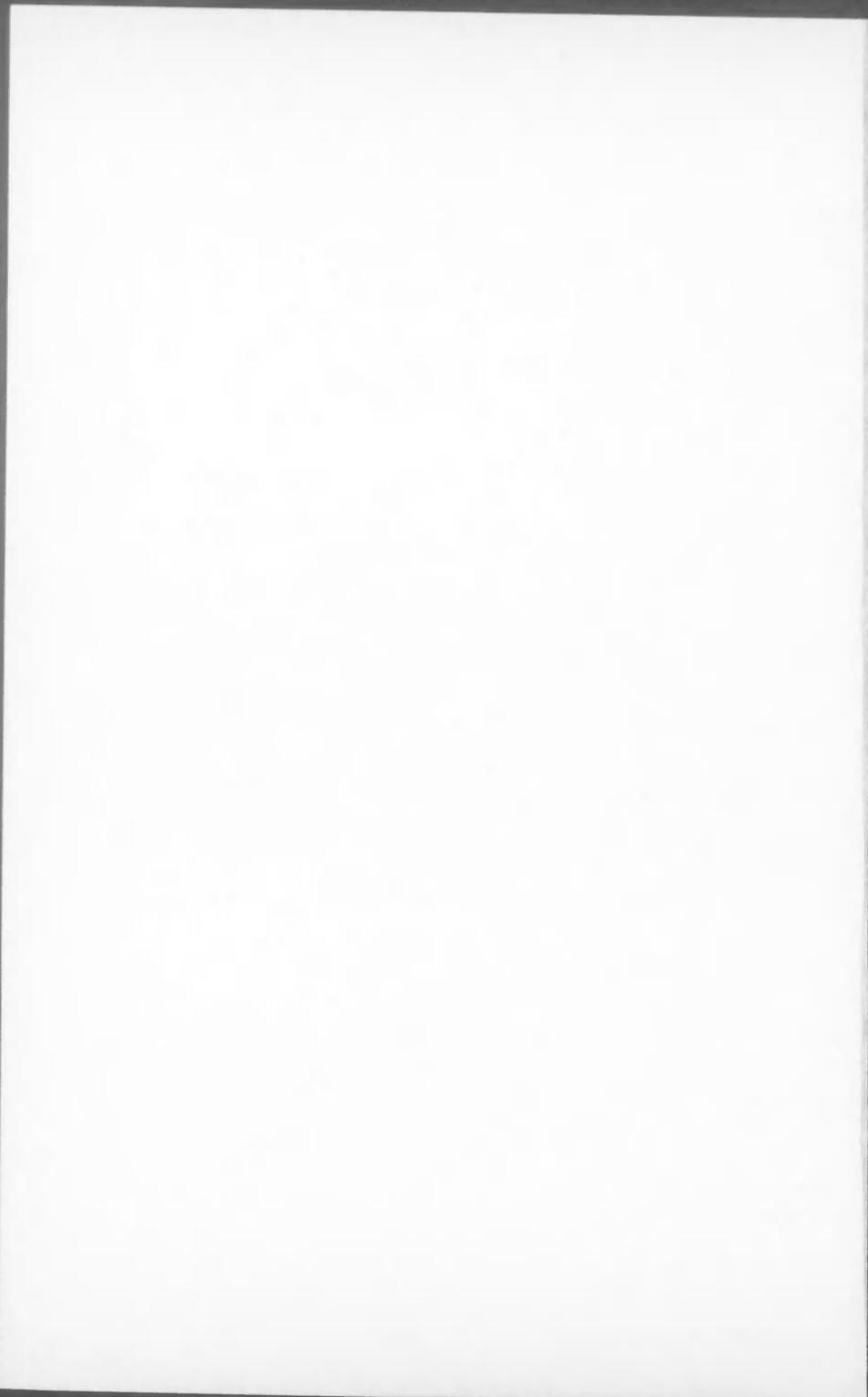
Holding:

Under the authority of GRI 3(a), HTSUS, the airbag cover of textile and rubber is provided for in heading 8708. It is classifiable in subheading 8708.99.80, HTSUS.

NY 814061, dated September 20, 1995, is revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.





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